

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>American Cable Association</b>	)	
<b>Petition for Rulemaking to Amend</b>	)	)
<b>47 C.F.R. §§76.64, 76.93 and 76.103</b>	)	
	)	<b>RM No. 11203</b>
<b>Retransmission Consent,</b>	)	
<b>Network Non-Duplication</b>	)	
<b>and Syndicated Exclusivity</b>	)	)

**STATEMENT OF CROWN MEDIA UNITED STATES LLC**

Crown Media United States LLC (“Crown Media”), which operates Hallmark Channel and Hallmark Movie Channel, submits this statement in response to the Commission’s Public Notice, Report No. 2696, released March 17, 2005, regarding the Petition for Rulemaking filed by the American Cable Association (“ACA Petition”) on March 2, 2005. The ACA Petition proposes revisions in the Commission’s retransmission consent, network non-duplication and syndicated exclusivity rules in order to impose some element of marketplace discipline on local broadcasters who otherwise may demand from small cable operators excessive consideration in return for retransmission consent, either in the form of unreasonable cash payments or the carriage of additional, unwanted channels.

Crown Media distributes Hallmark Channel and Hallmark Movie Channel to cable and DBS systems and to other multi-channel video programming distributors (“MVPDs”). Hallmark Channel is an advertiser and license fee

supported programming service that provides award-winning, family-friendly programming, including original movies and series, mini-series and first-run presentations from Hallmark Entertainment and third parties, as well as syndicated programs. Launched in August 2001, Hallmark Channel is now among the Top Ten channels in Total Day ratings and is seen in 68 million homes in the United States, primarily through analog cable and highly-penetrated DBS distribution.

Crown Media recently launched its second linear channel, Hallmark Movie Channel, which also is license fee and advertiser supported and features top-rated movies and miniseries from the Crown Media and Hallmark Entertainment libraries. Both Hallmark Channel and Hallmark Movie Channel are the exclusive “home” for movies from the award-winning "Hallmark Hall of Fame Collection" after their initial airing on broadcast television.

Hallmark Channel and Hallmark Movie Channel are independent programming services that compete with hundreds of other cable programming services for carriage. Competition is particularly keen for carriage on smaller cable systems that may have more limited channel capacity. For programming services like Hallmark Channel and Hallmark Movie Channel, the marketplace realities of finite cable channel capacity and the availability of hundreds of alternative programming services impose practical limits on the amount of license fees that a programmer can demand from a cable operator. However, the regulations identified

by ACA may serve to insulate local broadcasters from the pricing discipline imposed by those competitive, marketplace forces.

Such regulations may have indirect and unintended consequences in the marketplace. For ACA and its members, one such consequence apparently is the potential for local broadcasters to demand unusually high and arguably unreasonable payments in exchange for retransmission consent. In addition to the cash payments apparently demanded from the ACA members, broadcasters also have used their leverage to demand carriage of additional programming services on systems owned and operated by ACA members and non-ACA cable operators, often also requiring the payment of license fees for those services. For independent programmers like Crown Media, who desire to compete on a level playing field, the regulations identified by ACA, particularly the retransmission consent provisions, may cause adverse marketplace consequences, including: (a) further difficulty in launching and distributing new services, including video on demand (VOD) and high definition exhibition services, because cable operators forced to divert substantial payments to broadcasters have less to spend on new, independent programming; (b) further restriction of available channel capacity because cable operators forced to carry additional programming consequently may have less bandwidth available for independent programmers; and (c) increased competition in the marketplace for program acquisition with broadcast station groups whose revenues effectively are subsidized by government regulations. Finally, for cable subscribers, it appears that the only effects of these regulations are likely to be

increased cable rates and decreased programming diversity. The Commission should examine carefully the merits of the ACA Petition.

Respectfully submitted,

CROWN MEDIA UNITED STATES LLC

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